

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD.

SPECIAL CIVIL APPLICATION NO 4264 OF 1999

and

SPECIAL CIVIL APPLICATION NO 6124 OF 1996

For Approval and Signature :

Hon'ble MR. JUSTICE S.K.KESHOTE

1. Whether Reporters of Local Papers may be
allowed to see the Order ?

2. To be referred to the Reporter or not?

3. Whether Their Lordships wish to see the
fair copy of the Order ?

4. Whether this case involves a substantial
question of law as to the interpretation of
the Constitution of India, 1950 of any Order
made thereunder?

5. Whether it is to be circulated to the Civil
Judge?

VASANTLAL N SUTHAR

VERSUS

STATE OF GUJARAT

Appearance:

MR RAVI R TRIPATHI for the Petitioner
in SCA No.4264/99

MS SEJAL SUTARIA for the Petitioner
in SCA No.6124/96

MR SP HASURKAR for the Respondent in both cases

CORAM : MR JUSTICE S.K. KESHOTE

Date of Order : /08/1999

C A V JUDGMENT

#. As usual in these two matters the total contribution of the State of Gujarat, its officers and functionaries is that on their behalf an advocate is physically present. If in case the State of Gujarat is spending huge money (peoples money) in defending the cases filed against it in this Court or in subordinate courts only to see that on its behalf Government Advocates remain physically present I am constrained to observe that it is nothing but only an unnecessary heavy financial burden on the public exchequer. The reply to the Special Civil Application has not been filed and physical presence of the advocate if the reply is not filed there, the relevant record of the case is not available to him and no officer from the Government is present to assist him is of no help or assistance to this court. It is not gain say that this system is there so that from the side of the State of Gujarat, its officers and functionaries the assistance is being provided to the court to enable it to decide the matters. The very purpose and object of the system has been rendered nugatory or ineffective in this state. In the absence of the reply to this Special Civil Application though the court could have taken a convenient path to decide the petition in favour of the petitioner as their claim has not been contested by the respondents. But if this course is adopted only because of noncooperative attitude of the respondents there is all possibility of granting relief to the litigants who otherwise would not have been entitled for the same and it may result in unnecessary financial burden on public exchequer. At the same time if the matters are not decided for indefinite period or repeatedly time is being granted to respondents to file the reply to the Special Civil Application it will give heart burning and frustration to the people and they may lose their belief, faith and confidence in the system of independent judiciary in the country. One of the Special Civil Application is of the year 1996. On 19/8/96 this matter was admitted and this court has passed the order which reads as under :

"Rule. By way of ad-interim relief, it is directed that the Respondent shall give appointment to the petitioner herein as peon as is done in case of five persons named in order dated 7th September, 1995. The direction issued herein shall be complied with within a period of

three weeks from the date of the receipt of this order"

#. When this matter has come up for hearing on 29/7/99, this court has ordered to place this matter for final hearing in the court on 26/7/99. Thereafter this matter has come up on Board from time to time but the total trouble undertaken by the respondents-the State of Gujarat and its officers is even not to care to file reply to this Special Civil Application. The order of this court dated 19/8/96 is complied with or not is also not made known.

#. So far as the Special Civil Application No.4264/99 is concerned in this case a notice has been issued on 18/6/99 and then it has been admitted on 28/6/99 as on that date nobody was present on behalf of the respondents. Thereafter they have sufficient time to file reply but they have not cared to file the same. The state of affairs, which are prevailing in the State of Gujarat because of that many times the court is put in a difficult position to decide the matter finally though the matter could have been decided finally immediately in case it would have acted promptly.

#. Taking into consideration the totality of the facts of the case and keeping in view the larger interest that unnecessary financial burden may not fall on the public exchequer, the interest of justice will be served in case these two petitions are disposed of in the terms as the Special Civil Application No.433/96 has been decided.

#. In the result, these two special civil applications are disposed of in the term that the petitioners may file detailed representation in respect of their grievances made in these Special Civil Applications to the Collector, Sabarkantha. In case such a representation is filed by the petitioners, it is expected of the Collector, Sabarkantha to decide the same within a period of one month from the date of the receipt thereof. The petitioners are to file representations within a period of one month from today. Till the representation is decided by the Collector, Sabarkantha the interim relief granted in these two matters shall continue and where the grievances of the petitioner are not acceptable by the Collector, Sabarkantha it shall further continue for 15 days from the date on which the order is made. In case, the representation is not submitted by the petitioners within one month from today, the interim relief granted by this court in their favour shall stand vacated

automatically without reference to the court. Where the representation is not acceptable, the Collector, Sabarkantha has to pass a reasoned order and a copy of the same be sent to the petitioners by Registered Post A.D. Where the grievances of the petitioners are acceptable then they shall be given all the consequential benefits.

The rule and Special Civil Applications stand disposed of in the term, aforesaid with no order as to costs. Liberty is granted to the petitioner for revival of the Special Civil Applications, in case of any difficulty.

(S.K.Keshote, J.)

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